

REMARKS

This Application has been carefully reviewed in light of the Final Action dated December 29, 2004. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-20 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant respectfully traverses this rejection.

With respect to the term "broadband loop emulation service signaling protocol", it is a well know term of art in the telecommunications industry and easily known by those skilled in the art. The article "Standardize and Deliver" previously submitted, though bearing a date after the filing date of the present Application, specifically states that the broadband loop emulation service and its protocol stack were known by those skilled in the art prior to the filing of the present Application and by as early as July and August 2000. Thus, those of skill in the art were familiar with the term "broadband loop emulation service signaling protocol" at the time of filing of the present Application.

With respect to the term "Class 5 softswitch", it is clearly known by those skilled in the art. Attached herewith is an Information Disclosure Statement that cites an article entitled "TalkingNets to Implement telecom technologies' Flexible Softswitch Technology Within its Next-Generation Network" and bearing a date of June 6, 2000. The article specifically refers to a softswitch that provides Class 5 functionality. Thus, a Class 5 softswitch was well known to those skilled at the time of filing of the present Application.

With respect to the term "media gateway and call session control format", specific examples thereof are defined at page

6, lines 11-14, of Applicant's specification. Thus, the term is well defined and those of skill in the art were familiar with the term "media gateway and call session control format" at the time of filing of the present Application.

With respect to the term "network signaling format", specific examples thereof, such as SS7, are defined at page 6, lines 17-22, of Applicant's specification. Thus, the term is well defined and those of skill in the art were familiar with the term "network signaling format" at the time of filing of the present Application.

According to the discussion above, all of the terms identified by the Examiner were fully known to those skilled in the art at the time of filing of the present Application and appropriately defined in Applicant's specification. Therefore, Applicant respectfully submits that Claims 1-20 are in accordance with 35 U.S.C. §112, second paragraph.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smyk. Applicant respectfully traverses this rejection.

With respect to Independent Claim 1, there is recited ". . . a gateway operable to receive signaling information in a media gateway and call session control format, the gateway operable to convert the media gateway and call session control format to a broadband loop emulation service signaling protocol, the gateway operable to provide tone generation and detection capabilities pursuant to the signaling information." By contrast, the Smyk patent does not disclose a gateway that converts a media gateway and call session format to a broadband loop emulation service signaling protocol while also providing tone generation and detection as required by the claimed invention. The Smyk patent has no disclosure with respect to a broadband loop emulation service signaling

protocol. In fact, as discussed above, the Examiner is not even aware of such a protocol or that it is known by those of skill in the art.

Moreover, the Examiner readily admits that the Smyk patent fails to teach tone generation and detection capabilities at the gateway. The Examiner merely provides an improper subjective "it would have been obvious" conclusory statement as a basis for the rejection and has failed to cite by any objective evidence from within the Smyk patent or the prior art to support such a conclusion. Thus, the Smyk patent does not have a gateway that is capable of performing both the protocol conversion and the tone generation/detection functions provided in the claimed invention.

Additionally, Claims 3 and 9-11 recite a Class 5 softswitch. As pointed out by the Examiner, the Smyk patent clearly uses a Class 5 switch as opposed to the claimed Class 5 softswitch. The Class 5 switch of the Smyk patent cannot perform the function of converting the network signaling format to the media gateway and call session control format let alone providing and receiving the media gateway and call session control format as performed by the Class 5 softswitch provided in Claims 3 and 9-11. The portions of the Smyk patent cited by the Examiner merely show a media gateway control protocol between its service manager and its network gateway and not between its network gateway and its Class 5 switch. Moreover, as discussed above, the Examiner is not even aware of the existence of a Class 5 softswitch or that it is known by those of skill in the art. As a result, the Examiner is unable to comprehend the differences between a conventional Class 5 switch and a Class 5 softswitch and the different interfacing required to provide communications with

a Class 5 softswitch as compared to a conventional Class 5 switch.

With respect to Independent Claim 14, there is recited a task of ". . . converting the media gateway and call session control format to a broadband loop emulation service signaling protocol; providing tone generation and detection in response to the signaling information and instructions received from the Class 5 softswitch." By contrast, the Smyk patent does not disclose a gateway that converts a media gateway and call session format to a broadband loop emulation service signaling protocol while also providing tone generation and detection as required by the claimed invention. The Smyk patent has no disclosure with respect to a broadband loop emulation service signaling protocol. As stated earlier, the Examiner does not know that a broadband loop emulation service signaling protocol exists. As a result, the Examiner cannot effectively reject the claimed invention based merely on the Smyk patent, especially when the Smyk patent fails to provide any relevant disclosure as to the claimed broadband loop emulation service signaling protocol.

Moreover, the Examiner readily admits that the Smyk patent fails to teach tone generation and detection capabilities at the gateway. The Examiner merely provides an improper subjective "it would have been obvious" conclusory statement as a basis for the rejection that has not been shown to be supported by any objective evidence from within the Smyk patent or the prior art. Thus, the Smyk patent does not have a gateway that is capable of performing both the protocol conversion and the tone generation/detection functions provided in the claimed invention.

Additionally, Claim 14 requires receiving signaling information in a media gateway and call session control format

from a Class 5 softswitch. As discussed earlier, the Smyk patent clearly uses a Class 5 switch as opposed to the claimed Class 5 softswitch. The Class 5 switch of the Smyk patent has no capability to provide signaling information in a media gateway and call session control format as required by the Class 5 softswitch of Claim 14. The portions of the Smyk patent cited by the Examiner merely show a media gateway control protocol between its service manager and its network gateway and not between its network gateway and its Class 5 switch.

Based on the reasoning above, the Smyk patent is insufficient by itself to support a rejection of the claims. Therefore, Applicant respectfully submits that Claims 1-20 are patentably distinct from the Smyk patent.

Applicant notes that the Examiner continues to admit that the Smyk patent fails to disclose certain elements of the claims. Despite the admitted deficiencies of the Smyk patent, the Examiner continues to support the rejection of the claims by stating that the element or function would be obvious to those skilled in the art from the Smyk patent. However, other than the Examiner's own subjective conclusions, there has yet to be any evidence of record to support the rejections to the claims. Applicant respectfully requests the Examiner to provide objective evidence that supports the rejection of the claims by citing other references that specifically teach the claimed invention as opposed to unsupported subjective conclusions currently presented by the Examiner.

This Response to Examiner's Action is necessary to address the Examiner's characterization of Applicant's specification and the cited prior art. This Response to Examiner's Action could not have been presented earlier as the

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PATENT APPLICATION
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11

Examiner has only now provided the current characterization
for which a response is needed.

CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

Reg. No. 35,870

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